

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

NATHEN BARTON,

Plaintiff,

v.

ALLEVIATE TAX LLC, and JOHN  
DOE 1-10,

Defendants.

CASE NO. 3:23-cv-6071-DGE-RJB

ORDER ON MOTION TO  
DISMISS

This matter comes before the Court on Plaintiff's Motion to Dismiss for Failure to State a Claim and Under FRCP 9(b) (Dkt. 26). The Court is familiar with the records and files herein and all documents filed in support of and in opposition to the motion.

Included in Defendant Alleviate Tax LLC's Amended Answer to Plaintiff Nathen Barton's First Amended Complaint and Counterclaim to Plaintiff Nathen Barton's First Amended Complaint (Dkt. 24) is Defendant's counterclaim of fraud that is the subject of the pending motion.


It is foundational law that allegations of fraud require detailed pleadings setting forth the elements of fraud. They are follows: "To prevail on a common law claim of fraud, the plaintiff must establish each of the following elements: (1) representation of an existing fact; (2) materiality; (3) falsity; (4) the speaker's knowledge of its falsity; (5) intent of the speaker that it

1 should be acted upon by the plaintiff; (6) plaintiff's ignorance of its falsity; (7) plaintiff's reliance  
2 on the trust of the representation; (8) plaintiff's right to rely upon it; and (9) damages suffered by  
3 the plaintiff." *BP W. Coast Prod., LLC*, 2012 WL 2277843 at \*3 (citing *Stiley v. Block*, 130  
4 Wash.2d 486, 504, 925 P.2d 194 (1996).

5 A careful analysis of Defendant's pleadings in this case indicate to the Court that the  
6 allegations of fraud in the counterclaim offered (Dkt. 24) comply with the requirement to state a  
7 claim and to specifically list the elements of the claim under FRCP 9(b). This is particularly  
8 convincing when one reviews the counterclaim of the Defendant with the Defendant's briefing  
9 in response to Plaintiff's motion (Dkt. 34) that clearly adds information expanding on the details  
10 of the elements of Defendant's counterclaim alleging fraud. Accordingly, the motion should be  
11 DENIED.

12 IT IS SO ORDERED.

13 Dated this 17th day of June, 2024.

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16 ROBERT J. BRYAN  
17 United States District Judge  
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